

**NOT FOR PUBLICATION**

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

MARY JANE SCALAFANI,  
  
Plaintiff,  
  
v.  
  
UNITED STATES DEPARTMENT OF  
THE ARMY, et al.,  
  
Defendants.

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CIVIL ACTION NO. 09-1516 (MLC)  
  
**MEMORANDUM OPINION**

**THE COURT** notified the plaintiff that the Complaint would be dismissed on August 11, 2009, unless the plaintiff established that service had been effected ("Notice"). (See dkt. entry no. 6, 7-28-09 Order.) This action, which was commenced on March 31, 2009, has now been pending for 120 days without the plaintiff having served the defendants, and thus the Court, inter alia, "on motion or on its own after notice to the plaintiff - must dismiss the action without prejudice". Fed.R.Civ.P. 4(m) (emphasis added); see Sykes v. Blockbuster Video, 205 Fed.Appx. 961, 963-64 (3d Cir. 2006); Liu v. Oriental Buffet, 134 Fed.Appx. 544, 546 (3d Cir. 2005).

**THE PLAINTIFF** failed to respond to the Notice. The Court will therefore dismiss the Complaint for the plaintiff's failure to comply with Federal Rule of Civil Procedure 4(m). For good

cause appearing, the Court will issue an appropriate order and judgment.<sup>1</sup>

s/ Mary L. Cooper

**MARY L. COOPER**

United States District Judge

Dated: August 14, 2009

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<sup>1</sup> The Court notes that whether the plaintiff "did or did not receive the District Court's . . . order which directed . . . compl[iance] with Rule 4 is irrelevant; [the plaintiff] was still expected to comply with the rules of procedure". Sykes, 205 Fed.Appx. at 963.